

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DANIEL LEE CECIL,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:20-CV-44
(GROH)**

**STATE OF WEST VIRGINIA,
JUDY GOONTZ, and TIM HOT,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 8] on March 13, 2020. In his R&R, Magistrate Judge Trumble recommends that the Plaintiff’s § 1983 Complaint [ECF No. 1] be dismissed with prejudice as to Defendant State of West Virginia and dismissed without prejudice as to Defendants Goontz and Hot, based on the failure to exhaust administrative remedies before filing suit and failure to state a claim upon which relief can be granted.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a de novo review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of a plaintiff’s right to appeal this Court’s Order. 28.U.S.C. § 636(b)(1); Snyder v.

Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

The R&R was mailed to the Plaintiff on March 13, 2020. ECF No. 8. The R&R was returned as undeliverable on April 2, 2020. ECF Nos. 11, 12. Accordingly, the Plaintiff did not file objections. However, “all *pro se* litigants are responsible for promptly informing the Court of any change in their address, monitoring the progress of their case, and prosecuting or defending their actions diligently.” LR PL P 6. Failure to notify the Clerk of Court of an address change will result in dismissal of the prisoner’s case. Id. Thus, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble’s Report and Recommendation [ECF No. 8] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Plaintiff’s Complaint [ECF No. 1] is **DISMISSED WITH PREJUDICE** as to Defendant State of West Virginia and **DISMISSED WITHOUT PREJUDICE** as to Defendants Goontz and Hot. Accordingly, the Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* [ECF No. 2] is **DENIED** as **MOOT**.

This matter is **ORDERED STRICKEN** from the Court’s active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: April 2, 2020



GINA M. GROH
UNITED STATES DISTRICT JUDGE